

ORDER OF THE SUPREME COURT OF TEXAS

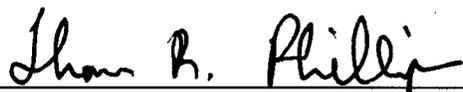
Misc. Docket No. 99- 9148

Approval of Local Rules, County Court of Smith County

IT IS ORDERED that:

Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court of Texas approves the attached Local Rules for the County Court of Smith County, Texas. The approval of these rules is temporary pending further orders of the Court.

By the Court, en banc, in chambers, this 23rd day of September, 1999.



Thomas R. Phillips, Chief Justice



Nathan L. Hecht, Justice



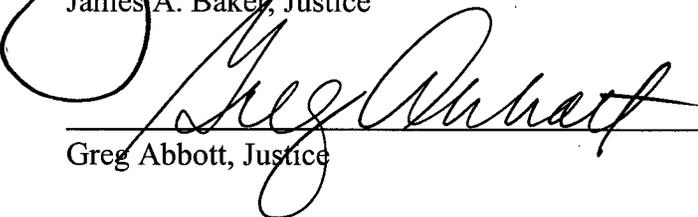
Craig T. Enoch, Justice



Priscilla R. Owen, Justice



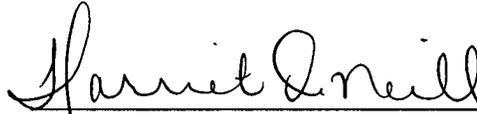
James A. Baker, Justice



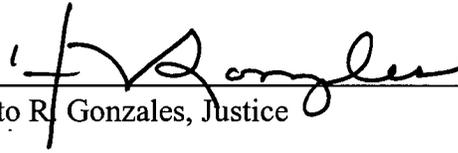
Greg Abbott, Justice



Deborah G. Hankinson, Justice



Harriet O'Neill, Justice



Alberto R. Gonzales, Justice



COUNTY COURT SMITH COUNTY, TEXAS

LOCAL RULES

Larry Craig, Judge

The following rules are local rules of the County Court of Smith County. These rules are applicable only to the County Court and do not reflect the requirements of other Courts having probate jurisdiction. Matters not specifically addressed shall comply with the Texas Probate Code;

I. General

- A. Information sheets and instruction sheets are required to be filed by all personal representatives; (these forms are available in the County Clerk's office)
- B. New Probate cases are set by the County Clerk upon filing of applications and the date and time is written on the receipt;
- C. Death certificates are required to be filed;

II. Probate

- A. Applications for Probate of Will As A Muniment of Title
 - 1. Affidavits of compliance as required by §89C (d) Tex. Prob. Code can only be waived if there is a sole devisee in the Will, if so include language in the order probating the Will, if not the affidavit should be filed as required;
- B. Applications for Probate of Will & Issuance of Letters Testamentary
 - 1. Applications must comply with §81 Tex. Prob. Code;
 - 2. Applications **must specifically** state what necessity exists for administration;
 - 3. Notice must be perfected before hearing date; §128 Tex. Prob. Code;
 - 4. Oaths shall not be signed and dated prior to date of appointment;
 - 5. Letters Testamentary will **not** be issued without information, instruction sheets, and when applicable, inventories.
- C. Applications for Administration (intestate)
 - 1. Applications must comply with §82 Tex. Prob. Code;
 - 2. Applications **must specifically** state what necessity exists for administration;
 - 3. Notice must be perfected before the date of hearing; §128 Tex. Prob. Code;

4. Oaths shall not be signed and dated prior to date of appointment;
5. Bonds must be made by corporate sureties if over \$1,000.00; Personal surety bonds must comply with §§194, 196, & 201 Tex. Prob. Code;
6. Letters of Administration will **not** be issued without proper bond, oath, information sheets, instruction sheets, and when applicable, inventories and annual accounts;
7. Annual Accounts must comply with §399 Tex. Prob. Code and the format as required by the Court; (format available from Court)
8. Final Accounts must be posted by citation and other notice as required by Tex. Prob. Code;

III. Guardianships

A. General

1. Ad Litem appointments are handled by the Court from a list of certified attorneys as required by §§645 and 646 Tex. Prob. Code;
2. Orders for guardianship must be submitted **three (3) days prior** to the hearing date;
3. Counsel must agree, **on the record**, to waive proposed ward's presence at the hearing;

B. Notice Procedures

1. No hearing date will be set until after the proposed ward/minor has been personally served and the personal citation has been on file in the County Clerk's office for 10 days;
2. No hearing date will be set until all of the notice requirements of §633 Tex. Prob. Code have been met;
3. No hearing date will be set until after the Attorney Ad Litem has met with the proposed ward/ minor and filed his/her report in the County Clerk's office;
4. After steps one and two have been complied with, the attorney for the applicant and the attorney Ad Litem shall submit a request for setting in writing to the Probate Auditor; (see attached form)
5. The Probate Auditor will verify all of the above and if all requirements have been met, a hearing date will be set and notices will be sent to the parties;
6. Once all parties have received notices, motions for continuance must be filed in writing before the date of the hearing and must be agreed to before being granted; if not agreed, the Court will hear the motion for continuance on the date the case was originally set or before;

C. Physician's statements

1. Physician statements must be filed using the Court's form and shall not be dated earlier than the 120th day before the date of the filing of the application as required by §687 Tex. Prob. Code; (no exceptions- forms available from Court)

D. Order Appointing Permanent Guardians

1. Must comply with §693 Tex. Prob. Code;
2. Bonds will not be waived and must be corporate sureties if over \$1,000.00, if personal surety bond it must comply with §§703, 704 and 709 Tex. Prob. Code;
3. Safekeeping agreements must comply with Court required form; (available from Court)
4. Letters of Guardianship will **not** be issued without oath, proper bond, information sheet, instruction sheet, and when applicable, inventories and annual accounts;

E. Annual Accounts - Tex. Prob. Code §741

1. Must comply with Code;
2. Must comply with format required by the Court; (available from Court)

F. Report on the person of the ward/minor - Tex. Prob. Code §743

1. Guardians of the person are required to report **annually** on the condition and well-being of the ward/minor;
2. Forms for this report must comply with the Code and the form required by the Court; (available from Court)

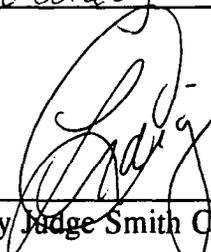
IV. Small Estates Affidavits

- A. File only if decedent died intestate;
- B. Death Certificate must be attached;
- C. Must comply with §§137 and 138 Tex. Prob. Code

V. Miscellaneous

- A. Probate dockets are called every Tuesday at 9:00 a.m. unless notified otherwise;
- B. Pleadings considered by submission are submitted every Wednesday and Friday afternoon;
- C. Ad Litem appointment list is by request only and a letter of certification must be submitted along with request;
- D. Private Professional Guardian applications are available in the Judge's office and should be filed there also;
- E. All pleadings filed in estates/guardianships that are not current will be held in suspension until the inventories, annual accounts, etc. are filed and approved.

It is so Ordered on the 22nd day of February, 1999,
effective from and after adoption.

Approved: 
County Judge Smith County, Texas



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

September 23, 1999

Hon. Larry Craig
County Judge
100 N. Broadway #304
Tyler, Texas 75702

Dear Judge Craig,

Please find enclosed, a copy of the order of the Supreme Court that temporarily approved local rules for the County Court of Smith County.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. Pat McDowell
1st Admin Judicial Rgn

Hon. Diane V. DeVasto
241st District Court

District Clerk

County Clerk

Supreme Court Adv Committee

Mr. Jerry Benedict
Office of Court Admin

State Law Library